

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1875 – HB 1936

February 20, 2018

SUMMARY OF ORIGINAL BILL: Requires a defendant be sentenced within Range II if convicted of second degree murder of a minor when the unlawful distribution of a Schedule I or II drug is the cause of death.

FISCAL IMPACT OF ORIGINAL BILL:

Increases State Expenditures – \$113,200 Incarceration*

SUMMARY OF AMENDMENT (013241): Deletes and replaces language of the bill such that the amended legislation requires that the offender be sentenced from within one range higher than the sentencing range otherwise appropriate for that offender.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from original fiscal note.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 39-13-210 defines second degree murder as the knowing killing of another or the killing of another that results in the unlawful distribution or dispensation of a Schedule I or Schedule II drug.
- The proposed legislation adds the provision that if the offender is convicted of second degree murder by the unlawful distribution and dispensation of a Schedule I or Schedule II drug and the victim was a minor, and requires the court to sentence the offender from within one range higher than the sentencing range otherwise appropriate for that offender.
- The Tennessee Department of Health reports that 1,631 Tennesseans died from drug overdoses in 2016, the highest annual number of such deaths recorded in state history. This is an increase from the 1,451 overdose deaths recorded among Tennessee residents in 2015.
- On average, there are approximately 1,500 deaths per year in Tennessee that resulted from an overdose each year in Tennessee.


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- Approximately one percent, or 15 ($1,500 \times 0.01 = 15$), of these deaths can be linked to an unlawful distribution or delivery of a controlled substance or controlled substance analog.
- Of these 15 drug-related deaths, it is assumed that one-fourth, or four, of these overdose deaths are minors ($15 \times .25 = 3.75$).
- Of these four deaths of minors, one-fourth, or one ($4 \times 0.25 = 1$), will result in an admission for second degree murder.
- The average sentence received for a second degree murder conviction is 23.53 years. This falls within Range I on the sentencing matrix.
- The average time served for second degree murder is 15.83 years, or approximately 67.3 percent of the sentence received.
- Under the enhancement provision of the proposed legislation, the average sentence received within Range II will be 30 years.
- Assuming the offender will serve a similar percentage of the sentence received as current offenders, the average time served for a Range II, second degree murder sentence will be 20.19 years ($30 \text{ years} \times .673$).
- The proposed legislation will result in each offender serving an additional 4.36 years ($20.19 - 15.83$).
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 4.36 years (1,592.49 days) at a cost of \$113,194 ($\$71.08 \times 1,592.49 \text{ days}$).
- The proposed legislation will not create any new cases for the courts, public defenders, or district attorneys. Any impact can be accommodated within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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